

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

April 6, 1998

DIVISION ONE

B112510	People v. Russo
B117780	In re Russo on Habeas Corpus

Filed order modifying opinion. (No change in the judgment.)

DIVISION TWO

B106922 People (Certified for Publication)
v.
Cynthia Wood

The order under review is affirmed.

Boren, P.J.

We concur: Fukuto, J.
 Nott, J.

B106787 Mary L. Franklin et al. (Not for Publication)
v.
Federal Deposit Insurance Corporation

The appeal is dismissed.

Boren, P.J.

We concur: Fukuto, J.
 Nott, J.

April 6, 1998-Continued

DIVISION TWO (Continued)

[illegible]

The Court:

The orders continuing appellant as a ward of the court based on findings that he committed the offenses alleged in counts 2 through 4 of the petition filed on April 7, 1997, and from the order committing him to the California Youth Authority are affirmed. The case is remanded for an award of predisposition credit for all actual days in custody attributable to the possession of cocaine alleged in the petition filed on September 6, 1995, the robbery alleged in the petition filed on October 5, 1995, and the possession of a revolver by a minor, carrying a loaded firearm on one's person in a public place in a city, and possession of cocaine alleged in the petition filed on April 7, 1997, including partial days in custody.

Boren, P.J., Fukuto, J., Zebrowski, J.

B095395 MacGregor Yacht Corp. (Not for Publication)
v.
State Compensation Insurance Fund

The judgment is affirmed. MacGregor is entitled to costs on appeal.

Boren, P.J.

We concur: Fukuto, J.
Zebrowski, J.

April 6, 1998-Continued

DIVISION TWO (Continued)

B112384 People (Not for Publication)
v.
Brian Allen

The Court:

The judgment is modified to reflect two 5-year enhancements pursuant to section 667, subdivision (a), and in all other respects the order under review is affirmed.

Boren, P.J., Nott, J., Zebrowski, J.

B108247 People (Not for Publication)
v.
Joel Aguilar et al.

The Court:

The judgments are affirmed.

Boren, P.J., Fukuto, J., Nott, J.

B115007 People (Not for Publication)
v.
Randy Ray Mino

The Court:

The judgment is affirmed.

Boren, P.J., Fukuto, J., Zebrowski, J.

DIVISION TWO (Continued)

B097874 People (Not for Publication)
v.
Joe Richard Valencia

The finding that appellant's conviction of assault with a deadly weapon is a qualifying prior felony conviction under the three strikes law (Pen. Code, §§ 667, subds. (b)-(i), 1170.12) is reversed. The judgment of conviction and findings regarding the remaining prior felony conviction allegations under the three strikes law and the allegations that appellant served two prior prison terms within the meaning of Penal Code section 667.5, subdivision (b), are affirmed.

The judgment sentencing appellant to a prison term of 25 years to life enhanced by 2 years based on the prior prison term findings is reversed, and the matter is remanded for resentencing to enable the trial court to exercise its discretion whether to vacate one or more of the qualifying prior felony conviction findings under the three strikes law on its own motion in the furtherance of justice. The trial court is directed to correct the award of presentence conduct credit to 254 days and to correct the total award of presentence credit to 764 days.

Brandlin, J. (Assigned)

We concur: Boren, P.J.
Fukuto, J.

B110713 Nicolas Shirilla et al. (Not for Publication)
v.
Cynthia Lipson

The order compelling arbitration is reversed. The arbitration award is vacated. The judgment confirming the arbitration award is reversed. The order dismissing the complaint is reversed. The award of attorney fees is reversed. The order denying appellant's motion for reconsideration is reversed. The cause is remanded to the trial court for further proceedings. As the prevailing party in this appeal, appellants are entitled to recover their attorney fees on appeal pursuant to the written lease. Appellants to recover costs on appeal from respondent.

Boren, P.J.

We concur: Fukuto, J.
Zebrowski, J.

April 6, 1998-Continued

DIVISION THREE

B100839 People (Not for Publication)
v.
Ronnie Cherokee Brown

The judgment is reversed.

Klein, P.J.

We concur: Kitching, J.
 Dunn, J. (Assigned)

B110274 People (Not for Publication)
v.
Eric Delano Mallard

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

DIVISION FOUR

B109744 DeBerard Properties, Ltd. (Certified for Publication)
v.
Lim et al.

We reverse the judgment and remand to the trial court with directions to enter judgment for the appellants. Appellants to recover costs on appeal including attorney fees as determined by the trial court.

Vogel (C.S.), P.J.

We concur: Baron, J.
Czuleger, J. (Assigned)

April 6, 1998-Continued

DIVISION FOUR (Continued)

B110083 People (Not for Publication)
v.
Nemeth et al.

The judgments are affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
Baron, J.

[illegible]

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Baron, J.

B111688 People (Not for Publication)
v.
Morales

The Court:

For the foregoing reasons, this matter is remanded for resentencing. In all other respects, the judgment is affirmed.

Vogel (C.S.), P.J., Epstein, J., Hastings, J.

DIVISION FOUR (Continued)

B118105 Victoria M. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department of Children and Family Services , r.p.i.)

The petition for extraordinary writ is therefore denied.

Czuleger, J. (Assigned)

We concur: Hastings, Acting P.J.
 Baron, J.

DIVISION FIVE

B109558 People (Not for Publication)
v.
Melvin Clark

The judgment is modified to strike the four one-year enhancements imposed pursuant to Penal Code section 667.5, subdivision (b). In all other respects, the judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J. (With opinion)
Grignon, J.

DIVISION SIX

B106311 Tizzano (Not for Publication)
v.
Pacific Gas & Electric Company

We remand the matter for recalculation of damages for violation of Labor Code section 1197.5, and affirm the judgment in all other respects. Respondent is awarded costs on appeal.

Stone, P.J.

We concur: Gilbert, J.
 Yegan, J.

April 6, 1998-Continued

DIVISION SIX (Continued)

[illegible]

The judgment is reversed. Costs to appellant.

Yegan, J.

We concur: Gilbert, Acting P.J.
 Coffee, J.

DIVISION SEVEN

[illegible]

The judgment is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.

B114619 People (Not for Publication)
v.
Booker

The judgment is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Neal, J.

April 6, 1998-Continued

DIVISION SEVEN (Continued)

[illegible]

The judgment is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Neal, J.

[illegible]

The judgment is affirmed.

Simpson, J. (Assigned)

We concur: Johnson, Acting P.J.
 Neal, J.

B105662 Lawson (Not for Publication)
B109256 v.
Lawson

The judgment of partition and the order for sanctions are affirmed. The parties are bear their own costs on appeal.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.